

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JAMES LARK,

Case No. 14-CV-3205 (JRT/SER)

Plaintiff,

v.

REPORT AND RECOMMENDATION

HENNEPIN COUNTY A.D. CENTER;
HENNEPIN COUNTY SHERIFF DEPT.;
NURSE that worked Friday the 15th of Aug.;
and HENNEPIN COUNTY SHERIFF
DEPUTIES,

Defendants.

Plaintiff James Lark filed a complaint seeking relief for alleged violations of his constitutional rights. *See* ECF No. 1. He did not pay the required filing fee for this case. Instead, Lark filed an application seeking leave to proceed *in forma pauperis* (“IFP”). *See* ECF No. 2. In an order dated August 19, 2014, this Court declined to grant that IFP application and ordered that Lark file an amended complaint by no later than October 10, 2014, failing which this Court would recommend that this case be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. *See* ECF No. 3.

That deadline has now passed, and Lark has not filed an amended complaint. Indeed, Lark has not communicated with the Court about this case since initiating this lawsuit. Accordingly, this Court recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district

court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS
HEREBY RECOMMENDED THAT:

1. This action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.
2. Lark's application to proceed *in forma pauperis* [ECF No. 2] be DENIED AS MOOT.

Dated: October 24, 2014

s/Steven E Rau
Steven E. Rau
U.S. Magistrate Judge

NOTICE

Under D. Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **November 10, 2014**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within fourteen days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A district judge shall make a de novo determination of those portions of the Report to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Eighth Circuit Court of Appeals.